

Exhibit J



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

October 17, 2023

By Email

Matthew S. Barkan
Sidhardha Kamaraju
Danil J. Pohlman
John M. Kilgard
Clare P. Tilton
Sabrina Shroff

Pryor Cashman LLP
7 Times Square
New York, NY 10036

Re: *United States v. Kwok, et al., S1 23 Cr. 118 (AT)*

Dear Counsel:

The Government writes in response to your letter dated September 29, 2023.

Discovery Requests

Regarding your specific discovery requests:

First, regarding cellphone location information and associated data pertaining to the numbers 718-753-4074, 917-455-6412, 914-393-0698, 917-741-9997, 917-499-4266, 646-675-7455, and 917-689-7821, the Government will produce such data in a subsequent production. *See also* USAO_00094734, USAO_00094732, USAO_00094731, and USAO_00094733.

Second, we have provided materials we have received from prosecutors in the Eastern District of New York (“EDNY”) regarding the *Bai* case. The other materials and information derived from the *Bai* case that you requested are not in our possession. The EDNY prosecutors have had no involvement in the investigation or prosecution of this case—and certainly did not “actively investigat[e]” this case, “act under the direction of” the undersigned, or “aid[]” the undersigned “in crafting trial strategy”—and are therefore not members of this prosecution team. *United States v. Barcelo*, No. 13 Cr. 38 (RJS), 2014 WL 4058066, at *9 (S.D.N.Y. Aug. 15, 2014), *aff’d*, 628 F. App’x 36 (2d Cir. 2015).

Third, please articulate your position as to why the allegations in EDNY’s *Bai* case, as well as the materials requested in Request Nos. 3-8, are relevant to this matter. Similarly, please explain why any victim’s reference to the New Federal State of China would be subject to disclosure at this time.

Fourth, [REDACTED] the Government directs you to materials it is producing today at USAO_0054395 – USAO_0054479.

Fifth, regarding your request for an unredacted copy of the Government's motion to disqualify Bove from his representation of defendant Yanping Wang, the Government properly submitted portions of its disqualification motion *ex parte* in order to protect confidential and privileged Government information. Accordingly, we cannot provide an unredacted copy to you.

Sixth, with respect to the U.S. Department of Homeland Security's investigation of Kwok, the Government will produce material HSI provided the undersigned from HSI's separate investigation (in which the undersigned took no part), to the extent such material is subject to disclosure in this case. The Government made an initial production of such material, which contains the vast majority of HSI's subpoena returns, on Friday, October 13, 2023. (See Bates USAO_0015508 – USAO_0054106). The Government is reviewing the remaining HSI materials and will make a subsequent production of any discoverable materials.

Seventh, the Government's investigation concerning the fire at the Sherry-Netherland Hotel on March 15, 2023 is ongoing. The Government has produced materials in its possession concerning that investigation, *see* USAO_00094046 – USAO_00094375; USAO_0054079 – 0054106, and will produce any additional fire-related materials on a rolling basis.

Eighth, we are informed by the FBI that the drones used to clear spaces for agents' safety, including the drone used on March 15, 2023 at the Sherry-Netherland Hotel, do not record video. With respect to your request about information concerning camera footage, the Government has produced the footage it obtained.

Ninth, the search warrants provide directions to executing agents concerning how to seize and identify responsive material. The Government further discussed with case agents obligations concerning *Brady*, as well as guidelines when encountering, *inter alia*, potentially privileged information.

Tenth, the Government is aware of its obligations under the Justice Manual and will abide by them.

Eleventh, the Government has produced materials in its possession from the bankruptcy Trustee, including materials the Trustee provided pursuant to grand jury subpoenas. (See USAO_0011851-0011869; USAO_0011837-0011842; USAO_0054107 – USAO_0054394.) The Government will produce any additional discoverable materials from the Trustee that come into its possession, if any, on a rolling basis and upon receipt.

Finally, and as you well know, the Government is not able to comment about the existence or non-existence of classified information implicated by your requests. To the extent materials requested by you are subject to disclosure, and are classified, such material will be handled pursuant to the Classified Information Procedures Act, on the timeline of the Court-ordered CIPA briefing schedule in this case. (See June 6, 2023 Tr.; Dkt. 55, 115.)

Other Discovery Matters

Regarding the other discovery matters you raised:

1. We will designate as “Confidential” the device extractions you identified, which were produced at USAO_00064450 – USAO_0006451, USAO_00064452 – USAO_00064453, and USAO_00094687 – USAO_00094688. We will ask DupeCoop to include those extractions on the next MDC discovery drive. The requested drive must be a small hard drive with a cord less than 10 inches long that connects directly to a computer, and which is not removable from the hard drive.

2. Although properly designated, to facilitate the review of information with your client, we will redesignate the documents beginning at the following Bates numbers as “Confidential” and are reproducing, with limited redactions of PII to several documents, as noted below:

- USAO_00107266, USAO_00108820, USAO_00108829,
USAO_00108830, USAO_00108832, USAO_00108881,
USAO_00108882, USAO_00108899, USAO_01088901,
USAO_00108979, USAO_00109619, USAO_00109621,
USAO_00109729, USAO_00109730, USAO_00109912,
USAO_00109913, USAO_00110268, USAO_00110285,
USAO_00110620, USAO_00110621, USAO_00110633,
USAO_00110634, USAO_00110871, USAO_00110874,
USAO_00111176, USAO_00111178, USAO_00111180,
USAO_00111183, USAO_00111185, USAO_00111188,
USAO_00111190, USAO_00111192, USAO_00111198,
USAO_00112216, USAO_00112218, USAO_00112249, and
USAO_00112253;
- **Redactions:** USAO_00107259, USAO_00107261, USAO_00108793,
USAO_00108819, USAO_00109721, and USAO_00109722.

3. Regarding the technical issues you identified:

- **AFEX.** The documents provided to us by AFEX bearing bates numbers USAO-REL_000006867, USAO-REL_000006868, USAO-REL_000006871, USAO-REL_000006867 were produced as password protected files to the Government. We are not currently in possession of those passwords and therefore are unable to provide the native files. If we obtain those passwords, we will provide them to you.
- For the remainder of the documents provided to us by AFEX bearing bates numbers USAO-REL_000006867-USAO-REL_000007710 (excluding the four documents listed above), our vendor has confirmed that the native files were produced. Please let us know if you continue to have issues accessing these files.
 - The native files bearing bates numbers USAO-REL_000007359 and USAO-REL_000007421 are both PDFs that read: “Please wait... If this message is not eventually replaced by the proper contents of the document...”.

- The file bearing bates number USAO-REL_000007501 is a 14-minute video that may appear as missing while the platform attempts to load it, but which can be viewed if downloaded.
- The native files for the documents bearing bates numbers USAO-REL_000007644 - USAO-REL_000007649 and USAO-REL_000007703 – USAO-REL_000007710 are PDFs that read: “Native file is missing”.
- Our vendor’s processing tool did not capture the attachments to the native files for the documents bearing bates numbers USAO-REL_000007703 - USAO-REL_000007710 when they were uploaded to the web platform. The vendor is creating an overlay file, which includes the original natives and their attachments. We will produce that overlay file upon receipt from the vendor.
- **Armanino.** Our vendor has also confirmed that the native files for the documents bearing Bates numbers USAO-REL_000008524, USAOREL_000008699, USAO-REL_000008701, USAO-REL_000008780, USAOREL_000008930, USAO-REL_000008936, USAO-REL_000008938, USAOREL_0000089342, and USAO-REL_000010021 were all produced. Please let us know if you continue to have issues accessing these files.
 - The native files for USAO-REL_000008780, USAO-REL_000008930, USAO-REL_000008936, USAO-REL_000008938, and USAO-REL_000008942 are blank .png files.

- The native file for the document bearing the bates number USAO-REL_000010021 is a .3gp file, which needs to be downloaded and played outside of the web platform.

Very truly yours,

DAMIAN WILLIAMS
United States Attorney

By: /s/
Ryan B. Finkel
Juliana N. Murray
Micah F. Fergenson
Assistant United States Attorneys
(212) 637-6612 / 2314 / 2190

Cc: Alex Lipman, Esq. (via Email)